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Date: June 23, 2008

To: Zollie Stevenson, Jr.
U.S. Department of Education

From: Linda McCulloch
State Superintendent, Montana

Subject: Montana Response to Proposed ESEA Title I Regulations

General Comments

Before I comment on the individual regulations, I would like to make two observations about the proposed rules as a whole.

1. The ESEA will almost certainly be reauthorized next year. It wastes scarce resources to make changes now when the rules probably will change again next year.
2. These changes, some with a very short timeline, cost much time and money. To the best of my understanding, the U.S. Department of Education (USED) will not provide financial aid to cover the costs of the additional unfunded mandates. The USED estimates do not take into account the people involved in policy decisions. Other factors do not appear to be part of the USED cost projections. Some of the time estimates, such as revision of the Accountability Workbook, are much lower than the actual requirements, considering the administrators and staff who will need to be involved in any further discussion of N size. As best we can tell, no provision was made for indirect costs. The programming time and costs appear to be underestimated. The biggest cost according to USED is in documenting transfers, but there is no way to decipher what the computed cost would be for Montana. This will entail much expense to LEAs who are facing severe funding crunches already as fixed expenses of transportation and heating are escalating. Finally, the costs fall disproportionately on small population states, since most of the required SEA activities require approximately the same time regardless of the size of the student population or the size of the SEA staff.

Section 200.7 Disaggregation of Data (Accountability Workbook)

1. The 60 days to revise the workbook is a burden, at least on small population states. We have few staff, but the same workload requirements to revise the workbook as large population states.
2. This proposed change presupposes that the current process is flawed. If USED has not used a sound process, it should tell states exactly how the process is deficient and then give states adequate time to address the problem(s). The proposed regulation will once

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again result in N sizes varying from state to state. At present in Montana different N sizes have been required by USED for different purposes.

3. The question of N size should be put on hold until the proposed national advisory council can consider the issues.

Section 200.11 Participation in NAEP

NAEP scores are already reported on state Web sites. Since there are no NAEP LEA scores, having it on LEA report cards will confuse parents and the community. Not only does it not provide helpful information about the local school, it provides information that confuses parents and the public. No amount of explanation can make NAEP relevant to the performance of local students on tests that are not related and not comparable.

Section 200.19 Other Academic Indicators (Graduation Rates)

1. The definition of graduation is not consistent between ESEA Title I and IDEA (and the OSEP guidance not allowing students with disabilities to be counted as graduating on time by completing coursework prior to October 1.) The USED should be internally consistent before requiring states to be consistent.
2. Having a graduation rate based solely on a four-year time span provides a huge disincentive for schools. There must be a means of providing strong encouragement to keep young people in school and not dismiss them as not being important enough to count if they do not graduate with their class. Some students experience medical or other circumstances that make a later graduation beyond their control. But no matter what the reason, a person should be encouraged to finish a high school education at any age. There should also be incentives for states to provide GED or other alternatives to a standard diploma, if we are truly committed to including all children in our educational system.
3. Requiring a change to a transitional rate and then to the final rate in the space of three years costs money and time in programming and tracking. When it is finished, it provides a new number that does not correspond to past numbers (many states like Montana use the NCES method) or to the future "NGA rate" method. And, during the transition, not all states will use the averaged freshman rate, so the numbers are worthless for comparison purposes. The states' present systems should be used until data is in place to use the new national definition.
4. Interstate transfers will continue to be a problem with no complete solution foreseen in Montana. States will need USED assistance on handling the interstate transfer issue.
5. Disaggregated graduation rates should not be used for AYP. The addition of more cells does not arithmetically increase the chances that a school will not make AYP, it increases that chance geometrically. The Montana educational community agrees with the National Governors' Association that the new graduation rate was not meant to be used for high stakes accountability.

6. Applying a goal for the 2008-09 school year well after the beginning of the year is problematic, unfair and perhaps unworkable.

Section 200.20 Making Adequate Yearly Progress (Growth Models)

The principles for growth models previously issued are too restrictive to allow for innovative approaches that really show individual student growth. The guidelines should be reworked with input from the states that were in the growth-model pilot.

Section 200.39 Responsibilities Resulting from Identification for School Improvement

This requires posting certain information on the LEAs Web site. Many Montana schools do not have Web sites. Will they be required to create and maintain them to post this information, especially since there are no public (or private) school choices in vast areas of the state and no SES services available in a large majority of rural schools?

Section 200.43 Restructuring

1. We agree with the CCSSO comment about one year of corrective action not being enough for any significant change to take place.
2. Both the law and the regulations are based entirely on urban models. Rural schools in poverty areas, such as some American Indian reservations, cannot be helped by "choice" since there are no other schools, public or private for many miles. There are no SES providers. In isolated and impoverished areas, it is very difficult to attract teachers or administrators of any kind. If the LEA were to fire these educators (the Montana Constitution provides the local school board with the authority to make that decision), it would be extremely difficult to replace them. There are no charter schools in Montana. Private companies have no interest in operating these schools, even if the school boards were interested.

We are very interested in what we can do with our schools in high poverty areas (which have a direct correlation to student test scores.) If there were some strategies that were shown to work, and if the money necessary were provided, the Montana SEA would gladly work with LEA boards of trustees to improve schools. Unfortunately, these regulations do nothing to help those rural schools.

Section 200.44 Public School Choice

The requirement for 14-day notice to parents before the start of school will put a great strain on LEAs, given the difficulty of finalizing AYP results.

Section 200.47 SEA Responsibilities for SES

In states with the minimum \$400,000 state administration for ESEA Title I, increasing the tasks of monitoring LEA implementation and SES providers may stretch limited resources to the breaking point, unless other important duties are neglected.